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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,116	09/29/2003	Peter J. Dronzek JR.	181-030B	2428

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EXAMINER	
GOFF II, JOHN L	
ART UNIT	PAPER NUMBER
1791	
MAIL DATE	DELIVERY MODE
02/13/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/674,116	DRONZEK, PETER J.	
	Examiner	Art Unit	
	John L. Goff	1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 January 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *25-36 and 38-50* is/are pending in the application.

4a) Of the above claim(s) *48* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *25-36,38-47,49 and 50* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *12/20/07,1/28/08*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/8/08 has been entered.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

3. Claims 25-36, 38-46, and 49 are objected to because of the following informalities: In claim 25, lines 4-5 delete "will will" and insert therein - - will - -. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. Claims 25-27, 30-36, 38, 45-47, 49, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over in Gobel (U.S. Patent 3,296,723) view of Malhotra (U.S. Patent 5,885,678) or Ito et al. (U.S. Patent 5,422,175), and optionally the admitted prior art (Specification page 4, lines 21-25).

Gobel discloses a method of labeling a glass, plastic, or metal container or surface with a printable label through a method comprising selecting a polymeric patch label, e.g. a plastic foil, applying a hydrophilic coating to the polymeric patch label, applying a water based adhesive to the hydrophilic coating to form a fastenable polymeric label, and fastening the label to the container or surface (Figure 3 and Column 2, lines 9-16 and 53-65 and Column 3, lines 1-6 and Column 4, lines 33-36). Gobel is silent as to the label material comprising a microvoided polymeric material, it being noted Gobel is not limited to any particular label material and suggest as exemplary polyvinylchloride in addition to other conventional materials such as paper. It was known in the labeling art that label materials include any of paper, polyvinylchloride, and microvoided polymer such as microvoided polypropylene as shown by Malhotra (Column 6, lines 30-64). Ito specifically discloses a microvoided polymeric label material comprising an inner microvoided polymeric base including surface microvoids and an outer layer easily written on, the label having a high definition for printing, high durability, appearance of high quality, etc. (Column 1, lines 6-10 and Column 2, lines 18-28 and 37-42 and Column 3, lines 18-20 and Column 12, lines 7-10 and 23-29). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use as the label material in Gobel any of those known as suitable in the art for the same such as microvoided polymer as

shown by Malhotra. Further, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use as the label material in the method taught by Gobel the microvoided polymeric label taught by Ito having a high definition for printing, high durability, appearance of high quality, etc.

Regarding the limitation that the label is a "patch label", Gobel appears to describe a patch label (Column 4, lines 33-36), and as such is considered to meet the limitation. In the event it is shown Gobel does not necessarily teach a patch label the following rejection would apply, it being noted Gobel is not limited to any particular type of label. It is considered well taken in the art of labeling that there are two types of labels which include wrap labels which provided a 360 degree wrap around the container and patch labels with less than 360 degree wrap as shown for example by the admitted prior art (Page 4, lines 21-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use as the label taught by Gobel as modified by Malhotra or Ito either of those well known to one of ordinary skill in the art such as a wrap label or a patch label as evidenced by the admitted prior art depending on the amount of information conveyed by the label, the decorative effect of the label, etc.

Regarding the limitation that the label "will readily feed from a label magazine or gripper and will allow a water based adhesive to migrate into said microvoided polymeric label", the microvoided polymeric label taught by Gobel as modified by Malhotra or Ito is consistent and in agreement with that claimed and described by applicants as resulting in the same such that the limitation is considered met.

Regarding the limitation of "allowing said polymeric label to dry on said glass, plastic or metal surface or container", Gobel teaches the water based adhesive is a water-activated gum adhesive wherein it is considered that necessarily a water-activated gum adhesive when used as an adhesive is activated, i.e. wet, and then dries to cure and obtain adhesion such that Gobel necessarily allows the polymer label to dry on the surface or container when adhering the label. In the event it is shown that Gobel does not necessarily teach drying the following rejection would apply, it being noted Gobel is not limited to any particular technique for applying the polymer label with water-activated gum adhesive thereon onto the container or surface. It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the polymeric label with water-activated gum adhesive thereon taught by Gobel as modified by Malhotra or Ito by activating the adhesive with water, applying the label onto the container or surface, and allowing the activated adhesive by drying to cure and adhere the label to the container or surface as would have been the readily understood technique by one of ordinary skill in the art when using a water-activated adhesive.

Regarding claim 32, the hydrophilic coating applied to the label as taught by Gobel is considered applied with 100% coverage (See the Figures).

Regarding claim 33, Gobel does not specifically teach the thickness of the water based adhesive. Absent any unexpected results, it would have been obvious to one of ordinary skill in the art at the time the invention was made to experimentally determine the thickness of the water based adhesive required in Gobel as modified by Malhotra or Ito and optionally the admitted prior art to achieve a good bond between the label and the container or surface as doing so would have required nothing more than ordinary skill and routine experimentation.

Regarding claim 34, Ito teaches the polymeric label is a co-extruded film including polyester and coloring agent (Column 5, lines 13-17 and Column 9, lines 17-20).

Regarding claim 35, Ito teaches the layer easily written on that is laminated to the base considered a low density polymeric label surface may included printed indicia, e.g. a bar code, wherein it is considered obvious to one of ordinary skill in the art at the time the invention was made to use as the printed indicia on the layer easily written on taught by Gobel as modified by Ito and optionally the admitted prior art any decorative indicia including reverse printed indicia as only the expected results would be achieved.

Regarding claims 36 and 38, Ito teaches the polymeric label includes an outer layer easily written on that is roughened which is considered an adhesion promoting layer to promote indicia adhesion (Column 12, lines 7-10). Further, Ito teaches optionally including an inner layer of the same type which is considered a tie layer to the hydrophilic layer (Column 3, lines 15-18). It being further noted tie layers and primer are considered well known in the art for adhesion promoting such that it would have been obvious to one of ordinary skill in the art at the time the invention was made to include on either surface of the label base taught by Gobel as modified by Malhotra or Ito and optionally the admitted prior art a well known adhesion promoting tie layer or primer.

Regarding claims 45 and 46, Gobel teaches the hydrophilic layer is a derivative of polyacrylic acid wherein absent any unexpected results it would have been obvious to one of ordinary skill in the art at the time the invention was made to use any of the well known derivatives of polyacrylic acid such as carboxylated sodium polyacrylate.

Regarding claim 47, Malhotra teaches the microvoided polymer is polypropylene, and Ito teaches the microvoided polymeric base includes polyolefin-type resins wherein polypropylene is specifically noted in the background of Ito (Column 1, lines 62-66 and Column 3, lines 65-66). It would have been obvious to one of ordinary skill in the art the time the invention was made to use as the polyolefin component of the microvoided polymeric base taught by Gobel as modified by Ito and optionally the admitted prior art any of the particular polyolefins suggested such as polypropylene by Malhotra and the background of Ito as only the expected results would be achieved.

Regarding claims 49 and 50, Ito specifically suggests the label has a density, i.e. specific gravity, less than 0.9 (See Example 1).

5. Claims 28, 29, 43, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gobel, Malhotra or Ito, and optionally the admitted prior art as applied to claims 25-27, 30-36, 38, 45-47, 49, and 50 above, and further in view of Jannusch (U.S. Patent 4,440,884).

Regarding claims 28, 29, and 44, Gobel, Malhotra or Ito, and optionally the admitted prior art as applied above teach all of the limitations in claims 28, 29, and 44 except for a specific teaching of the water based adhesive, which is considered coated/added to the hydrophilic layer, as including a catalyst, it being noted Gobel is not limited to any particular water based adhesive and suggest a water based gum adhesive. Jannusch discloses a water based adhesive which maintains a strong bond between a label and an object to which it is attached wherein the adhesive comprises gum, starch, casein, etc. and includes a crosslinking catalyst to provide a quick bond (Column 1, lines 5-10 and Column 3, lines 36-51). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use as the water

based adhesive in Gobel as modified by Malhotra or Ito and optionally the admitted prior art the water based adhesive including gum, starch, or casein shown by Jannusch to strongly bond the label to the container.

Regarding claim 43, Gobel, Malhotra or Ito, and optionally the admitted prior art as applied above teach all of the limitations in claim 43 except for a specific teaching of the hydrophilic layer including humectants. It is considered well taken in the art that a hydrophilic polymeric composition include humectants to control its viscosity, i.e. curl control and layflat properties, wherein Jannusch are exemplary of a hydrophilic composition including humectants to control the viscosity and bond strength of the composition (Column 3, lines 63-68 and Column 4, lines 5-14). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include in the hydrophilic layer taught by Gobel as modified by Malhotra or Ito and optionally the admitted prior art humectants as shown by Jannusch to control the viscosity and bond strength of the composition.

6. Claims 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gobel, Malhotra or Ito, and optionally the admitted prior art as applied to claims 25-27, 30-36, 38, 45-47, 49, and 50 above, and further in view of Kelly (U.S. Patent 4,978,436).

Gobel, Malhotra or Ito, and optionally the admitted prior art as applied above teach all of the limitations in claims 39-42 except for a specific teaching of a protective coating placed over the printed indica on the outer layer, e.g. a bar code label. Kelly discloses a method wherein a protective coating layer including slip aids is placed on a substrate that is used as a label wherein the coating layer has slip properties that facilitates use of the coating layer on a high speed packaging apparatus (Column 1, lines 16-30). It would have been obvious to one of ordinary

skill in the art at the time the invention was made to include over the outer layer of the label taught by Gobel as modified by Malhotra or Ito, and optionally the admitted prior art the protective coating shown by Kelly to provide optimum high speed application of the label.

Response to Arguments

7. Applicant's arguments with respect to claims 25-36, 38-47, 49, and 50 have been considered but are moot in view of the new ground(s) of rejection.

The previous claim objections are overcome by applicants amendment. The previous rejections over DE 1569879 (See also the abstract) are withdrawn in view of Gobel.

Applicant argues, "Example 3 of DE1569879 has been repeated and the results are presented in the attached copy of the Declaration of Leslie Fernandez that is of record in U.S. 6,663,746. That Declaration provides data that shows that label of Example 3 of DE 1569879 will not dry and the treated surface remains sticky like cellophane tape so that those individual labels will stick to one another and cannot be used in a labeling machine where they are stacked one upon another. The amendatory language of claims 25, 47 and 50 points out that the claimed process uses a patch label that will readily feed from a label magazine or gripper. This language would exclude a label as made in Example 3 of DE 1569879 from the claims and there is nothing in DE 1569879 that gives any motivation as to how to modify the surface of the PVC label of Example 3 so that the labels do not stick to one another.".

DE 1569879 is withdrawn in view of newly provided Gobel. However, the declaration would not have been sufficient to overcome DE 1569879 as the Declaration does not compare the closest prior art, i.e. DE 1569879 in view of Ito, to applicants invention.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John L. Goff** whose telephone number is **(571) 272-1216**. The examiner can normally be reached on M-F (7:15 AM - 3:45 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John L. Goff/
Primary Examiner, Art Unit 1791